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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/412,122	10/05/1999	ALBERTO GUTIERREZ, JR.	RR2619	9247

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EXAMINER

SMITH, SHEILA B

ART UNIT PAPER NUMBER

2617

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/412,122

Applicant(s)

GUTIERREZ, JR. ET AL.

Examiner

Sheila B. Smith

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 15 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 18-29, 33-42 and 49-57 is/are allowed.
- 6) ☐ Claim(s) 1-17, 30-32, 43-48 and 58-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-17 are currently believed to be non-statutory, since it appears to recite a form of energy, *per se* which is not currently deemed to fall into one of the four statutory classes of invention and would not enable the functionality of the program to be realized without further hardware, e.g., a processor, transmitter or receiver.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-17, 30-32, and 43-48, 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Black et al (U.S. Patent Number 6,208,873) in view of Love et al. (U.S. Patent Number 6,058,107).

Regarding claims 15-17, Black et al. discloses essentially all the claimed invention as set forth in the instant application, further Black et al. discloses a method and apparatus for transmitting reverse link power control signals based on the probability that the power control command is in error, in addition Black et al. discloses a common power control signal on a carrier wave and transmitted from a base station to a plurality of subscriber units, Black et al. discloses in column 3 lines 36-67 and column 4 lines 1-12 (which reads on a plurality of bits corresponding to a reverse link and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel) in a code division multiple access wireless communication system (discloses in column 1 lines 10-11), the common power control signal causing the subscriber units to manage their reverse link transmissions on a plurality of reverse link common channels (discloses in column 1 lines 9-20), the power control signal comprising: a plurality of power control bits, each power control bit corresponding to a reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power (discloses in column 3 lines 15-25); and a plurality of bits (which reads on Black's "a power control bit having a second value" discloses in column 3 lines 50-66), each of the plurality of bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel (which reads on "power control bit having a second value is assigned to the mobile unit. In this embodiment, a power control bit having the second value corresponds to a command to a mobile unit (down or reverse link) that the mobile unit should increase its output transmit power by a predetermined amount

such as 1 db during the next transmit interval”. However, Black et al. fails to specifically disclose the use of Walsh channel.

In the same field of endeavor Antonio et al. discloses digital combining of forward channels in a base station. In addition Antonio et al. discloses the use of Walsh channel as disclosed in column 6 lines 41-45.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Black et al. with the teachings of Antonio et al. for the purpose of maintaining power output.

Regarding claims 30-32, Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses a base station supports communications with a CDMA system comprising, an antenna (830), a interface, a spreader/despreader (832), a coder/decoder (848), processing circuitry (846), memory (94), a base station controller as exhibited in figure 8, Black et al. discloses a common power control signal on a carrier wave and transmitted from a base station to a plurality of subscriber units, Black et al. discloses in column 3 lines 36-67 and column 4 lines 1-12 (which reads on a plurality of bits corresponding to a reverse link and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel) in a code division multiple access wireless communication system (discloses in column 1 lines 10-11), the common power control signal causing the subscriber units to manage their reverse link transmissions on a plurality of reverse link common channels (discloses in column 1 lines 9-20), the power control signal comprising: a plurality of power

Art Unit: 2681

control bits, each power control bit corresponding to a reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power (discloses in column 3 lines 15-25); and a plurality of bits (which reads on Black's "a power control bit having a second value" discloses in column 3 lines 50-66), each of the plurality of bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel (which reads on "power control bit having a second value is assigned to the mobile unit. In this embodiment, a power control bit having the second value corresponds to a command to a mobile unit (down or reverse link) that the mobile unit should increase its output transmit power by a predetermined amount such as 1 db during the next transmit interval". However, Black et al. fails to specifically disclose the use of Walsh channel.

In the same field of endeavor Antonio et al. discloses digital combining of forward channels in a base station. In addition Antonio et al. discloses the use of Walsh channel as disclosed in column 6 lines 41-45.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Black et al. with the teachings of Antonio et al. for the purpose of maintaining power output.

Regarding claims 43-48, Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses a base station supports communications with a CDMA system comprising, an antenna (830), a interface, a spreader/despreader (832), a

Art Unit: 2681

coder/decoder (848), processing circuitry (846), memory (94), a base station controller as exhibited in figure 8, Black et al. discloses a common power control signal on a carrier wave and transmitted from a base station to a plurality of subscriber units, Black et al. discloses in column 3 lines 36-67 and column 4 lines 1-12 (which reads on a plurality of bits corresponding to a reverse link and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel) in a code division multiple access wireless communication system (discloses in column 1 lines 10-11), the common power control signal causing the subscriber units to manage their reverse link transmissions on a plurality of reverse link common channels (discloses in column 1 lines 9-20), the power control signal comprising: a plurality of power control bits, each power control bit corresponding to a reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power (discloses in column 3 lines 15-25); and a plurality of bits (which reads on Black's "a power control bit having a second value" discloses in column 3 lines 50-66), each of the plurality of bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel (which reads on "power control bit having a second value is assigned to the mobile unit. In this embodiment, a power control bit having the second value corresponds to a command to a mobile unit (down or reverse link) that the mobile unit should increase its output transmit power by a predetermined amount such as 1 db during the next transmit interval". However, Black et al. fails to specifically disclose the use of Walsh channel.

In the same field of endeavor Antonio et al. discloses digital combining of forward channels in a base station. In addition Antonio et al. discloses the use of Walsh channel as disclosed in column 6 lines 41-45.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Black et al. with the teachings of Antonio et al. for the purpose of maintaining power output.

Regarding claims 58-60, Black et al. discloses everything claimed, as applied above (see claim 1) additionally, Black et al. discloses a base station supports communications with a CDMA system comprising, an antenna (830), a interface, a spreader/despreader (832), a coder/decoder (848), processing circuitry (846), memory (94), a base station controller as exhibited in figure 8, Black et al. discloses a common power control signal on a carrier wave and transmitted from a base station to a plurality of subscriber units, Black et al. discloses in column 3 lines 36-67 and column 4 lines 1-12 (which reads on a plurality of bits corresponding to a reverse link and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel) in a code division multiple access wireless communication system (discloses in column 1 lines 10-11), the common power control signal causing the subscriber units to manage their reverse link transmissions on a plurality of reverse link common channels (discloses in column 1 lines 9-20), the power control signal comprising: a plurality of power control bits, each power control bit corresponding to a reverse link common channel of the plurality of reverse link common channels and directing a respective subscriber unit to adjust its reverse link transmission power (discloses in column 3 lines 15-25); and a plurality of bits (which reads on Blacks "a power control bit having a second value" discloses in column 3 lines

Art Unit: 2681

50-66), each of the plurality of bits corresponding to a reverse link common channel of the plurality of reverse link common channels and indicating whether a dedicated burst mode has been scheduled for the reverse link common channel (which reads on “power control bit having a second value is assigned to the mobile unit. In this embodiment, a power control bit having the second value corresponds to a command to a mobile unit (down or reverse link) that the mobile unit should increase its output transmit power by a predetermined amount such as 1 db during the next transmit interval”. However, Black et al. fails to specifically disclose the use of Walsh channel.

In the same field of endeavor Antonio et al. discloses digital combining of forward channels in a base station. In addition Antonio et al. discloses the use of Walsh channel as disclosed in column 6 lines 41-45.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Black et al. with the teachings of Antonio et al. for the purpose of maintaining power output.

Allowable Subject Matter

3. Claims 18-29,33-42 and 49-57 are allowed.

Response to Arguments

4. Applicant's arguments with respect to claims 1-60 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2681

Conclusion

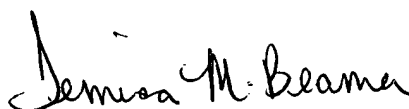
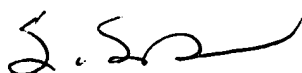
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (571)272-7847. The examiner can normally be reached on Monday-Thursday 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.Smith

January 23, 2006



TEMICA BEAMER
PRIMARY EXAMINER

3/20/06